IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 494 OF 2005

Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri I.S. Charlewar, Advocate for the petitioner.
Shri A.M. Ghare, Advocate for the respondents.

CORAM : B.R. GAVAI, J.
07TH OCTOBER, 2006

By way of present petition, the petitioner challenges the order dated 15th December, 2004 vide which the application of the respondents for permission to file Written Statement beyond the period of 90 days came to be allowed.

Shri I.S. Charlewar, the learned Counsel appearing on behalf of the petitioner submits that unless the exceptional circumstances are made out, the Court has no jurisdiction under Order 8 Rule 1 of the Code of Civil Procedure to permit the defendants to file Written Statement. He, therefore, submits that there are no circumstances pointed out in the application and as such the learned trial Court has erred in allowing the application.

Perusal of the application would reveal that on

first three dates, on which the matter was fixed, were within a period of one month and 12 days. Thereafter, after a period of about one month, Written Statement came to be filed. It is further to be noted that in the suit summons, no specific period mentioned during which the Written Statement was required to be filed.

Though the defendant is normally required to file Written Statement within a period of 30 days and for satisfactory reasons to be within a period of 90 days, the provisions of Order 8 Rule 1 have now been held to be not mandatory and the discretion is vested with the learned Court to permit the party if the case is made out beyond the period of 90 days. From the perusal of the application so also the impugned order, I do not find any perversity in the approach adopted by the learned trial Court so as to warrant interference of this Court. Hence, rejected.

JUDGE

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